

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Chet Reames,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 12-77-0411
Parcel No. 070/00785-000-000

On August 23, 2013, the above captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Chet Reames is self-represented and requested a written consideration of his appeal. Assistant County Attorneys Ralph Marasco, Jr. and David Hibbard represent the Polk County Board of Review. The Appeal Board having reviewed the record and being fully advised finds:

Findings of Fact

Chet Reames is the owner of a residential, single-family property located at 1212 Shawnee Avenue in Des Moines, Iowa. The property is a one-story home built in 1955 with 816 square feet of total living area. It has a full, unfinished basement. The home also has a 188 square-foot deck and a 720 square-foot detached garage, which was built in 1982. The home is of average quality construction (4-05 grade) and is listed in below-normal condition. The site is 0.175 acres.

Reames protested the 2012 assessment of \$96,800, allocated as \$15,300 in land value and \$81,500 in improvement value, to the Board of Review. His claim was 1) that the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2); and 2) there was an error in the assessment under section 441.37(1)(a)(4). Reames error claim was that the

property had no fireplace. He claimed the subject property's correct value was \$40,000. The Board of Review Appraiser Analysis recommended the Board of Review change the value to \$89,000 because of a change in the subject property's condition to correct an error by removing a fireplace, which was incorrectly listed. The Board of Review granted the protest, in part, reducing the assessment to \$70,300, representing \$15,300 in land value and \$55,000 in improvement value.

Reames then appealed to this Board re-asserting his claim of over-assessment. He now claims the property's correct assessment should be \$50,000, allocated as \$15,300 in land value and \$34,700 in improvement value.

We note the subject property's assessment did not change from the prior year. 2012 was an interim assessment year, and because the property's assessment did not change, the only ground available for protest is that there has been a change downward in value since the last assessment. *Eagle Food Ctrs., Inc. v. Bd. Of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993). Reames did not protest based on the ground of change in value, but because the Board of Review changed the value of Reames' property citing a change in value since the last reassessment, we find it acquiesced to the ground. *See Security Mut. Ins. Ass'n v. Bd. of Review of Ft. Dodge*, 467 N.W.2d 301, 305 (Iowa Ct. App. 1991); *White v. Bd. of Review of Polk County*, 244 N.W.2d 765, 769 (Iowa 1976). Therefore, the only ground we will consider on appeal is that there has been a change in value since the last reassessment. In order to show change in value, Reames must also establish not only the value of the property as of January 1, 2012, but also the value on January 1, 2011.

Reames purchased the subject property on November 3, 2011, for \$39,900. The sale was the result of a foreclosure. He submitted an appraisal that was completed for First Newton National Bank of Newton, by appraiser Jeff Boswell of Central Iowa Appraisers in Des Moines. Boswell concluded a market value opinion of \$40,000, as of the purchase date.

Boswell noted that although Reames purchase was a Real Estate Owned (REO) sale, which is a property owned by a lender, he asserted that it appeared to be an arms' length transaction between the seller and the buyer. We note, however, that a sale that is the result of a foreclosure would not be considered as a normal transaction for assessment purposes.

Boswell used four comparable sales and one active listing. The properties were all one-story dwellings within roughly one mile of the subject property. Boswell noted two of the sales (Comparable 1 and Comparable 4) were also REO sales. However, he did not comment on or make any adjustments for this potentially distorting factor. Further, the listing Boswell used was also a property that was bank-owned according to the Board of Review's Appraiser Analysis. Because three of the comparable properties Boswell considered in the appraisal were listed or sold as the result of being bank owned, and he made no adjustments or comments for this factor, we will not rely on the appraisal.

The Board of Review's Certified Record included five comparable properties that sold in 2010 and 2011; one property, 4136 12th Street, was included in Boswell's appraisal. The properties were all one-story dwellings built in the 1940s and 1950s and in the same neighborhood as the subject. The dwellings ranged from 672 square feet to 1052 square feet of living area. Sale prices ranged from \$49,000 to \$98,000, or \$68.06 to \$129.32 per square foot, compared to the subject property's \$49.02 REO sale price per square foot. Its sale price is far below the range of the Board of Review's comparable sales. After, what appear to be cost-based adjustments for differences in living area, quality, basement finish, age, and condition, the adjusted sale prices ranged from \$65,218 to \$106,156; or \$89.07 to \$157.97 per square foot with a median of \$93.01 per square foot. The subject property is assessed at \$86.15 per square foot, which is within the range and below the median of the adjusted sale prices.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

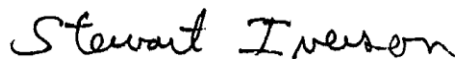
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In a non-reassessment or "interim" year, when the property's assessment has not changed, a taxpayer may challenge its assessment on the basis that there has been a change in value from the immediately preceding assessment year. Iowa Code §§ 441.35(2), 441.37(1)(b) (2013); *Equitable Life Ins. Co. v. Bd. of Review of Des Moines*, 252 N.W.2d 449 (Iowa 1977). For a taxpayer to be successful

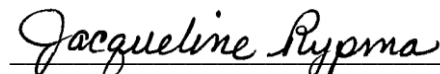
in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation. *Equitable Life Ins. Co.*, 252 N.W.2d at 450. The assessed value cannot be used for this purpose. *Id.* Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451. Reames failed to provide sufficient evidence to show the fair market value of his property as of January 1, 2011, and January 1, 2012. As previously noted, Reames' appraisal is not reliable because it considers REO sales and does not comment on or adjust for this factor, despite Iowa law clearly indicating that foreclosure sales are abnormal transactions. Thus, the appraisal cannot be used to establish either a 2011 value or 2012 value. Because Reames' evidence is insufficient, and both values are necessary to establish a change in value claim, his claim must fail.

THE APPEAL BOARD ORDERS the assessment of Chet Reames property located at 1212 Shawnee Avenue, Des Moines, Iowa of \$70,300, as of January 1, 2012, set by the Polk County Board of Review, is affirmed.

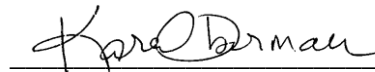
Dated this 6th day of September 2013.



Stewart Iverson, Presiding Officer



Jacqueline Rypma, Board Member



Karen Oberman, Board Member

Copies to:

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APPELLANT

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on September 6, 2013.

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other

Jean Casper

Signature _____